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## **SCHOOL READINESS**

### **Technical Assistance Alert**

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**ALERT Number: SR/TA #99-03**

**Date: June 28, 1999**

- ☒ Priority Schools  
☒ Severe Need Schools

**TO:** Mayors, Superintendents of School Readiness Grant  
School Readiness Council Chairs, Co-Chairs and Liaisons

**FROM:** Paul Flinter, Chief  
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Connecticut State Department of Education

Peter J. Palermino, Manager  
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**RE: Americans with Disabilities Act (ADA): Requirements**

The State Departments of Education and Social Services are sending this ALERT in order to provide grantees additional information about serving children with disabilities in early care and education settings, including school readiness programs. This Alert deals specifically with the **Americans with Disabilities Act (ADA)** and the related responsibilities for school readiness programs.

#### **What is the ADA?**

The Americans with Disabilities Act (ADA) is civil rights legislation designed to protect children and adults with mental or physical disabilities from discrimination or exclusion based upon a disability. The law is divided into a number of parts that address such things as access, accommodations and facility issues. President Bush signed the law in 1990.

#### **Who is an Individual with a Disability under the ADA?**

The ADA protects children – and adults – who have a physical or mental impairment that significantly limits one or more “major life activities” such as caring for oneself, eating, dressing, walking, seeing, hearing, or learning.

## **What is the Definition of an Individual with a Disability under the ADA?**

*(continued)*

This includes:

- ◆ A child who is disabled (e.g., spina bifida, mental retardation, cerebral palsy)
- ◆ A child who has a history of a disability (e.g., such as a child who is recovering from a condition or is currently in remission, such as heart surgery or cancer)
- ◆ A child who is regarded as disabled (e.g., a child with severe scars or burns)
- ◆ A child whose family members, caretakers or friends are disabled (e.g., a brother or sister in a wheelchair, an mother with HIV, a father with a mental illness)

## **What are the Guidelines under ADA?**

ADA provides that a child may not be denied access to a setting based solely upon the fact that the child has a disability, is perceived to have a disability or has anyone close to them with a disability. The mere fact that a child is disabled – or has a certain type of disability – is not reason to deny that child access and inclusion into your program. The ADA requires that each child's unique needs and condition must be evaluated on an individual basis.

Programs must make individual decisions regarding children with disabilities through objective criteria that informs the program's administration and personnel that the program is not able to adequately accommodate an individual child's needs. Only four reasons allow a provider to deny access to a child with a disability and their family. These include:

- ◆ If taking the necessary steps to accommodate the child's special needs with additional equipment or services imposes an undue burden on the provider, or would fundamentally alter the nature of the program or facility, and there are no alternative steps that can be taken.
- ◆ If accommodating the child's needs requires some architectural changes that are not readily achievable and there are no reasonable alternatives that are readily achievable.
- ◆ If a particular child's condition poses a direct threat to the health or safety of the child with the disability or of any of the other children or staff in the program and there is no reasonable way of eliminating the threat through changes in policies, practices, procedures, equipment or services.
- ◆ If integrating the child into the program requires changes in policies, practices or procedures that would fundamentally alter the nature of the program and there is no reasonable alternative.

## **What are the Guidelines under ADA?**

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It is important to note that if a program were to deny an individual child with a disability under one of these exceptions, it will not allow a provider to deny access or care to all children with the same disability. Each individual child and their special needs must be assessed on an individual basis.

Once a child is admitted, each individual child with a disability is entitled to equal, non-segregated inclusion in the program to the maximum extent appropriate to the needs of the child.

## **What does ADA mean for Programs?**

The ADA ensures and provides the opportunity for children with disabilities to participate in all activities and opportunities available in the child and family's community. Part of community life is being able to access and benefit from the school readiness and child care programs available in the community. It is important to recognize that a child with a disability may not be excluded from a program or center solely on the basis of their disability.

## **Are there Benefits to including Children with Disabilities?**

All children benefit when all children are served together. Children with disabilities have the opportunity to learn personal and social skills that they might not learn in a segregated setting or when they are excluded from opportunities to be with other typically developing children. Children without disabilities benefit by having the opportunity to gain self-concept, increase their tolerance of others who may be different, decrease their fear of differences in individuals and gain in social cognition. Families with a child with a disability benefit as well by having the same access and opportunities within their community as all families.

## **Can Providers Charge Families More to Serve Children with Disabilities?**

Under the ADA, providers may not charge the family of the child with disabilities for the total costs of having to comply with ADA. Costs must either be spread out across all of the families enrolled or providers have the option of taking a tax credit or tax deduction. Exceptions to the rule are made when measures that need to be taken exceed ADA requirements and/or if the accommodation would impose a financial hardship or undue burden.

### **What Happens if I Do Not Comply with ADA?**

Programs that do not comply with ADA may have a complaint filed against them through a number of enforcement agencies, including the U.S. Department of Justice. Providers may be required to pay a public fine, provide the child and family monetary compensation, and in some cases be forced to close.

### **Where Can I Get Additional Information Regarding ADA?**

The following agencies or programs can provide additional information regarding the ADA:

#### **Information Sources:**

Child Care Law Center  
22 Second Street  
5<sup>th</sup> Floor  
San Francisco, CA 94105  
(415) 495-5498  
Tuesday & Thursday  
9:00-12:00 Pacific Time

Office of the ADA  
Civil Rights Division  
U.S. Department of Justice  
P.O. Box 66738  
Washington, D.C. 20035  
1-800-514-0301

#### **Publications:**

**Child Care and the ADA: A Handbook for Inclusive Programs**, V. Rab and K. Wood, Brooks Publishing  
(1-800-638-3775)

#### **Internet Resources:**

- ◆ <http://www.adobe.com/prodindex/acrobat/readstep.html>: Department of Justice, Technical Assistance materials
- ◆ <http://www.usdoj.gov/crt/ada/adahom1.htm>: Department of Justice, Regulations and Technical Assistance materials

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